

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

GUSTAVO A. GALLEGOS,

Petitioner,

vs.

No. CIV 18-0887 JB\SMV

MARK BOWEN, warden,

Respondent.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

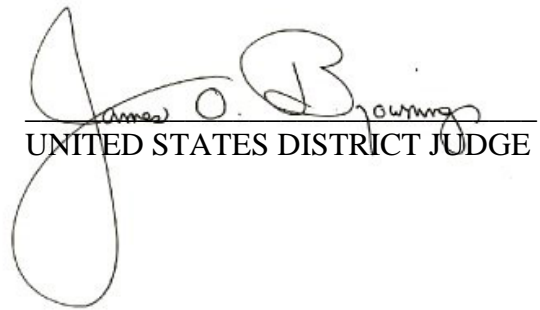
THIS MATTER comes before the Court under rule 41(b) of the Federal Rules of Civil Procedure on the handwritten letter from Petitioner Gustavo A. Gallegos to the Court, filed September 4, 2018 (Doc. 1)(“Petition”), which the Court construes as a petition for habeas corpus relief under 28 U.S.C. § 2241. The Court will dismiss the Petition without prejudice for failure to prosecute.

When Gallegos filed this proceeding, he indicated that he was incarcerated at the Northeastern New Mexico Correctional Facility (“NENMCF”) in Clayton, New Mexico. See Petition at 11. The record reflects that mailings to Gallegos at the NENMCF address were returned as undeliverable. See Mail Returned as Undeliverable, filed December 16, 2019 (Doc. 5). The Court received a notice of change of address, indicating that Gallegos had been transferred to the Cibola County Correctional Facility. See Email from Jackie Sanchez to the Honorable James O. Browning (dated December 4, 2018), filed December 6, 2018 (Doc. 4). Mail sent to Gallegos at the Cibola County Correctional address, however, also has been returned as undeliverable. See Mail Returned as Undeliverable at 1, filed December 30, 2019 (Doc. 9); Mail Returned as Undeliverable at 1, filed January 6, 2020 (Doc. 8). It appears that Gallegos has been transferred

or released from custody, and he has not informed the Court of his new address, as D.N.M.LR-Civ. 83.6 requires, thus severing contact with the Court. The Honorable Stephan M. Vidmar, United States Magistrate Judge for the United States District Court for the District of New Mexico, issued an Order to Show Cause on December 18, 2019, directing Gallegos to notify the Court of a new address, or otherwise show cause why the case should not be dismissed, within thirty days. See Order to Show Cause at 1, filed December 18, 2019 (Doc. 6). More than thirty days have elapsed since entry of the Order to Show Cause, and Gallegos has not provided the Court with a new address or responded to the Order to Show Cause.

Pro se litigants must follow the federal rules of procedure and simple, nonburdensome local rules. See, e.g., Bradenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court during their proceedings' pendency. See D.N.M.LR-Civ. 83.6. By not keeping the Court apprised of his current address, Gallegos has not complied with D.N.M.LR-Civ. 83.6 and with Judge Vidmar's December 18, 2019, Order to Show Cause. The Court may dismiss an action under rule 41(b) of the Federal Rules of Civil Procedure for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. See Olsen v. Mapes, 333 F.3d 1199, 1204 n.3 (10th Cir. 2003). The Court therefore will dismiss this civil proceeding pursuant to rule 41(b) for failure to comply with Judge Vidmar's Order to Show Cause and for failure to prosecute this proceeding.

IT IS ORDERED that Gustavo A. Gallegos' petition for habeas corpus relief under 28 U.S.C. § 2241, filed September 4, 2018 (Doc. 1) is dismissed without prejudice.



UNITED STATES DISTRICT JUDGE

Party:

Gustavo A. Gallegos
Cibola, New Mexico

Petitioner pro se